

HOUSE BILL No. 1518

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2-43.4; IC 31-16-6.

Synopsis: Support for postsecondary educational expenses. Provides that a child support order or educational support order may not include amounts for a child's educational expenses at a postsecondary educational institution unless the party to whom the order applies has entered into an agreement to pay amounts for the child's educational expenses at a postsecondary educational institution. Makes provisions in an order that include amounts for educational expenses at a postsecondary educational institution void unless the party to whom the order applies has entered into an agreement to pay those expenses. Makes conforming changes to remove references to educational support for postsecondary education.

Effective: July 1, 2015.

Heaton

January 20, 2015, read first time and referred to Committee on Judiciary.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1518

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-43.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]: **Sec. 43.4. "Educational needs", for purposes of**
4 **IC 31-16-6, does not include educational expenses at a**
5 **postsecondary educational institution.**
6 SECTION 2. IC 31-16-6-2, AS AMENDED BY P.L.2-2007,
7 SECTION 361, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The child support order ~~or an~~
9 ~~educational support order~~ may also include, where appropriate:
10 (1) amounts for the child's education in elementary and secondary
11 schools, ~~and at postsecondary educational institutions,~~ taking into
12 account:
13 (A) the child's aptitude and ability;
14 (B) the child's reasonable ability to contribute to educational
15 expenses through:



- (i) work;
- (ii) obtaining loans; and
- (iii) obtaining other sources of financial aid reasonably available to the child and each parent; and

(C) the ability of each parent to meet these expenses;

(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child; and

(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

~~(b) If the court orders support for a child's educational expenses at a postsecondary educational institution under subsection (a), the court shall reduce other child support for that child that:~~

~~(1) is duplicated by the educational support order; and~~

~~(2) would otherwise be paid to the custodial parent.~~

(b) This subsection applies to all child support orders and educational support orders, regardless of when the orders were issued. A child support order or an educational support order may not include amounts for a child's educational expenses at a postsecondary educational institution unless the party to whom the order applies has entered into an agreement to pay amounts for the child's educational expenses at a postsecondary educational institution.

(c) A provision in a child support order or educational support order that includes amounts for a child's educational expenses at a postsecondary educational institution is void, regardless of when the order was issued, unless the party to whom the order applies has entered into an agreement to pay amounts for the child's educational expenses at a postsecondary educational institution.

SECTION 3. IC 31-16-6-6, AS AMENDED BY P.L.207-2013, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The duty to support a child under this chapter, which does not include support for educational needs **described in section 2(a)(1) of this chapter**, ceases when the child becomes nineteen (19) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming nineteen (19) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.



(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

(C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) is on active duty in the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court;

the court shall find the child emancipated and terminate the child support.

~~(c) If a court has established a duty to support a child in a court order issued before July 1, 2012, the:~~

~~(1) parent or guardian of the child; or~~

~~(2) child;~~

~~may file a petition for educational needs until the child becomes twenty-one (21) years of age.~~

~~(d) If a court has established a duty to support a child in a court order issued after June 30, 2012, the:~~

~~(1) parent or guardian of the child; or~~

~~(2) child;~~

~~may file a petition for educational needs until the child becomes nineteen (19) years of age.~~

~~(e) If:~~

~~(1) an order was issued after June 30, 2012, that denied support for educational needs to a child who was less than twenty-one (21) years of age at the time the petition for educational needs was filed; and~~

~~(2) support for educational needs was denied based on the fact that the child was older than eighteen (18) years of age;~~



1 notwithstanding any other law; a parent or guardian of the child or the
2 child may file with the court a subsequent petition for educational
3 needs. The court shall consider the petition on the merits in accordance
4 with this section and may not consider the absence of subsection (c)
5 from law at the time of the initial filing.

